

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

|                            |   |                    |
|----------------------------|---|--------------------|
| MARTIN GUAJARDO            | ] |                    |
| Plaintiff,                 | ] |                    |
|                            | ] | No.                |
| v.                         | ] | (No. 3:13-mc-0102) |
|                            | ] | Judge Trauger      |
| CORRECTIONS CORPORATION OF | ] |                    |
| AMERICA                    | ] |                    |
| Defendant.                 | ] |                    |

M E M O R A N D U M

The plaintiff, proceeding *pro se*, is an inmate at the Metro Davidson County Detention Facility in Nashville. He brings this action against Corrections Corporation of America, the entity under contract to operate the Detention Facility, seeking injunctive relief and damages.

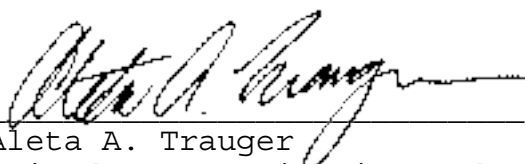
In October, the plaintiff developed an infection that caused him to scratch his itching skin and develop bleeding sores. The plaintiff alleges that he was denied adequate medical care for his malady.

When claiming a constitutional violation, the plaintiff can not sue the defendant solely because of its status as an employer or supervisor. Polk County v. Dodson, 454 U.S. 312, 325 (1981). A theory of respondeat superior will not support such a claim. There must be an allegation of participation, either directly or indirectly, by the employer or supervisor in an allegedly wrongful

act. In the absence of some type of participation by the defendant, the complaint fails to state a cause of action upon which relief can be granted. See Dunn v. Tennessee, 697 F.2d 121, 128 (6th Cir.1982), *cert. denied*, 460 U.S. 1086 (1983).

In this case, there are no factual allegations from which the Court could infer that the defendant had any part in the medical decisions being made for the care of the plaintiff. Personal liability "must be based on the actions of that defendant in the situation that the defendant faced, and not based on any problems caused by the errors of others." Gibson v. Matthews, 926 F.2d 532, 535 (6<sup>th</sup> Cir.1991). Consequently, this action is subject to dismissal because the plaintiff has failed to state a claim against the defendant upon which relief can be granted. 28 U.S.C. § 1915(e)(2).

An appropriate order will be entered.

  
Aleta A. Trauger  
United States District Judge